

Humphreys, Pamela (SHB)

From: Rachel Roman <Rachel@zevandavidson.com>
Sent: Friday, July 10, 2015 2:51 PM
To: Artman, Jennifer (SHB)
Cc: Dietrich, Heather (SHB); Amber Raab; David Zevan
Subject: RE: Strickland, et al. v. Nationwide Mutual Insurance Company

Jennifer,

At this point, I think you will have to file a motion for a continuance with the Court but we cannot consent to it. Thanks,

Rachel

From: Artman, Jennifer (SHB) [mailto:JARTMAN@shb.com]
Sent: Friday, July 10, 2015 12:59 PM
To: Rachel Roman
Cc: Dietrich, Heather (SHB); Amber Raab; David Zevan
Subject: RE: Strickland, et al. v. Nationwide Mutual Insurance Company

Rachel,

We understand your concerns, but I don't see any way to avoid the extension we have proposed. We will move for an extension of time regardless, however, I would rather we work out an agreed approach.

Regarding the IME, the court has granted us the right to perform it. I have attached my email with the description of the exam and explanations for each test. I received no objection to the exam as proposed, thus we moved forward with scheduling it. Your client's claims place his vertigo at issue, and I understand from the doctor that vertigo symptoms must be tested in this manner. The doctor's office has appointments before the workday and over the lunch hour for the convenience of your client and I understand at least one of the visits will be as short as 10 minutes. Our expert was available to conduct the IME in July, but that didn't work with your client's schedule. We provided additional dates for the exam, but those extended into August and September to work with everyone's schedule. Also, we initially proposed a different doctor, to which you objected on the basis of location. Instead of taking the issue to the Court and extending the scheduling order even further by requiring briefing on the issue, we quickly found another doctor which did not require your client to travel. We have tried hard to reach a compromise on the IME that works for everyone. I think we have done that, but it will require an extension of the current deadlines.

Finally, your suggested timeline does not appear workable. First, our IME expert will not be able to complete his exam or report by your proposed deadline. There just isn't enough time. Without the final test scheduled, our expert will not be finished with his analysis prior to your proffered defense expert report deadline. Second, I doubt that depositions of defense experts can be completed in the time you scheduled. Lastly, your proffered dispositive motion deadline of November 2, 2015 does not allow for opposition and reply briefing prior to the hearing set for November 6, 2015. For all these reasons, I think a short delay in the trial date is necessary.

As for the mediation deadlines, our proposed extension allows for an extension of time for mediation to occur. The results of the IME will be important for a meaningful mediation. We look forward to mediating once we have received the results of the IME. We are happy to provide a name of a suggested mediator.

Please give me a call if you have any questions. Thanks,

Jennifer

Jennifer J. Artman

Associate

Shook, Hardy & Bacon L.L.P.

816.559.0335 | jartman@shb.com



From: Rachel Roman [<mailto:Rachel@zevandavidson.com>]
Sent: Thursday, July 09, 2015 8:23 PM
To: Artman, Jennifer (SHB)
Cc: Dietrich, Heather (SHB); Amber Raab; David Zeven; Rachel Roman
Subject: RE: Strickland, et al. v. Nationwide Mutual Insurance Company

It seems like your DME deadline would be Aug. 28 (since that is when your expert is available to conduct the exam). In thinking about this further, I'm not sure what the point is of doing 3 audiograms, nor do I see how my client should have to appear for 3 separate appointments to get this done. The Rule states that you get one physical exam, and what you are proposing seems to be amounting to 3 separate exams each with testing to be performed all at times requiring Mr. Strickland to take time off from work. Do you have any explanation for this?

I note under the current schedule that we have to advise the Court by Aug. 1 of our selected mediator and date of mediation to occur by Oct. 1. Do you have a mediator that you would like to use in St. Louis? I am open to suggestions.

Let me know your thoughts on the following amendments to the schedule which only alters the discovery/dispositive motion deadlines by 30 days from the original deadline of Oct. 1:

August 28, 2015 – DME deadline
September 11, 2015 – Defense expert disclosures and reports
October 16, 2015 – Defense experts must be deposed
November 2, 2015 – Close of discovery
November 2, 2015 – Dispositive motions

From: Artman, Jennifer (SHB) [<mailto:JARTMAN@shb.com>]
Sent: Thursday, July 9, 2015 2:55 PM
To: Rachel Roman
Cc: Dietrich, Heather (SHB); Amber Raab
Subject: RE: Strickland, et al. v. Nationwide Mutual Insurance Company

I understand your question, and we didn't want to move it either – that's why we worked to keep it intact with the first extension of the IME deadline to late July. Unfortunately, scheduling the physical exam in late August and the last audiogram in early September keeps us from being able to be trial-ready in January. With disclosures and expert reports, expert depositions and summary judgment briefing that needs to be done between finishing the IME and trial, there simply isn't enough time. I believe the Court requires 2 months between dispositive motion briefing and the trial date anyway. If you have any creative thoughts, I'm open to suggestions.

From: Rachel Roman [<mailto:Rachel@zevandavidson.com>]
Sent: Thursday, July 09, 2015 2:48 PM

To: Artman, Jennifer (SHB)
Cc: Dietrich, Heather (SHB); Amber Raab
Subject: Re: Strickland, et al. v. Nationwide Mutual Insurance Company

Well I didn't know you were trying to change the trial date now. We don't want to do that. How can we avoid that?

Sent from my iPhone

On Jul 9, 2015, at 2:45 PM, "Artman, Jennifer (SHB)" <JARTMAN@shb.com> wrote:

Rachel,

Our proposed second (and final) extension to the scheduling order is below. This will allow Nationwide to complete the necessary expert work (namely, the IME) prior to disclosures and dispositive motion briefing, given the change in doctor and location of the IME. Feel free to give me a call to discuss if you have questions, and let me know if this works for your trial schedule.

September 18, 2015 – IME deadline
October 9, 2015 – Defense expert disclosures and reports
December 4, 2015 – Defense experts must be deposed
January 1, 2016 – Close of discovery
ADR between October 9, 2015 and January 1, 2016
January 15, 2016 – Dispositive motions
January 26, 2016 – Oppositions to dispositive motions
February 2, 2016 – Replies to dispositive motions
February 15, or Court's next availability – Hearing on dispositive motions
May 2015 – Pre-trial conference and trial

Thanks so much,

Jennifer

Jennifer J. Artman

Associate
Shook, Hardy & Bacon L.L.P.

816.559.0335 | jartman@shb.com

<image001.jpg>

From: Rachel Roman [<mailto:Rachel@zevandavidson.com>]
Sent: Wednesday, July 08, 2015 7:46 PM
To: Artman, Jennifer (SHB); Amber Raab
Cc: Dietrich, Heather (SHB)
Subject: RE: Strickland, et al. v. Nationwide Mutual Insurance Company

Jennifer,

I am out of the office for the next couple of days. If you have another revised schedule to propose, please let me know or just forward (email) it on.

Thanks,

Rachel

From: Artman, Jennifer (SHB) [<mailto:JARTMAN@shb.com>]
Sent: Wednesday, July 8, 2015 11:18 AM
To: Amber Raab
Cc: Rachel Roman; Dietrich, Heather (SHB)
Subject: RE: Strickland, et al. v. Nationwide Mutual Insurance Company

Thanks, Amber,

The admin who schedules appointments at SLU is out today, but we have left a message and will confirm the appointment first thing tomorrow. I'll let you know if we have any problems.

Rachel, I would love to touch base with you sometime soon about the scheduling order in this case, since we've had to schedule the IME out so far. If you get a chance, can you give me a call at 816-559-0335? I'm fine to email, too, if that works better for you. Thanks,

Jennifer

From: Amber Raab [<mailto:amber@zevandavidson.com>]
Sent: Wednesday, July 08, 2015 8:09 AM
To: Artman, Jennifer (SHB)
Cc: Rachel Roman
Subject: Strickland, et al. v. Nationwide Mutual Insurance Company

Ms. Artman –

Pursuant to our conversation on Monday, our client is available August 28, 2015 at 2:30 p.m.

Please confirm same still works with the physician.

Thank you.

Sincerely,
Ms. Amber N. Raab
Paralegal
The Zevan and Davidson Law Firm
One North Taylor Avenue
St. Louis, MO 63108
314-588-7200
314-588-7271 facsimile

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